

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ISRAEL BACA,

Petitioner,

v.

**CV. No. 5:20-cv-00886 KG-JHR
CR. No. 18-cr-3067 KG**

UNITED STATES OF AMERICA,

Respondent.

ORDER GRANTING IN PART PETITIONER'S MOTION FOR EXTENSION OF TIME

Before me is Petitioner's Motion for an Extension of Time to Reply to Proposed Findings and Recommended Disposition on Application to Vacate Sentence under 28 U.S.C. § 2255 [Doc. 20] ("Motion"). Petitioner also filed a Confirmation on Motion for Extension of Time to Reply [Doc. 21] ("Confirmation"). For the reasons below, I will grant the Motion in part.

Petitioner's Motion, mailed on March 8, 2023, and filed on March 13, 2013, requests a sixty-day extension to file objections to the Proposed Findings and Recommended Disposition ("PF&RD"). [Doc. 20]. Petitioner states that he could not timely file his objections in the fourteen-day period after the PF&RD because his prison facility was on modified lockdown during that time which prevented Petitioner from accessing the prison library. *Id.* at 1. Petitioner called the Clerk's Office to advise of this obstacle on March 2, 2023. *See* ("Court Only" docket text). The Government did not file a response to the Motion. The day after a response would have been due, Petitioner filed his Confirmation. The Confirmation cites a recent Supreme Court case, *United States v. Taylor*, 145 S. Ct. 2015 (2022) concerning whether an attempt crime constitutes a crime of violence under for purposes of his § 924(c) conviction. [Doc. 21].

I will grant Plaintiff's request for an extension to file objections to the PF&RD. However, I will not grant sixty new days. Objections were originally due on February 27, 2023, with three

extra days for service by mail. [Doc. 19]. Because Petitioner received mail service of the PF&RD, his original objections deadline was March 2, 2023 (the day he called the clerk's office). *See id.* Consequently, twenty-nine days have passed his original objections deadline expired. Rule 72 of the Federal Rules of Civil Procedures allows fourteen days for a party to lodge objections to a magistrate judge's recommended disposition. Fed. R. Civ. P. 72. Therefore, I will grant Petitioner fourteen days from entry of this Order to file his objections; in combination with whatever time he has not been in lockdown since the PF&RD was served, Petitioner will have more than adequate time to provide his objections. An additional extension is unlikely.

IT IS THEREFORE ORDERED that the Motion for Extension [Doc. 20] is **GRANTED** in part and denied in part. Petitioner is **GRANTED** an extension to file objections but **DENIED** sixty days to do so.

IT IS FURTHER ORDERED that Petitioner shall file his objections to the PF&RD with the Court **by close of business on Friday, April 14, 2023.**

IT IS SO ORDERED.



JERRY H. RITTER
UNITED STATES MAGISTRATE JUDGE